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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,352	10/03/2001	Robert Douglas Driesch JR.	ROC920010073US1	1536

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EXAMINER

RONES, CHARLES

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/970,352

Applicant(s)

DRIESCH ET AL.

Examiner

Charles Rones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

In view of the Appeal Brief filed on July 19, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carino, Jr. U.S. Patent No. 6,353,818 ('Carino') in view of Golding et al. U.S. Patent No. 6,640,218 ('Golding').

**Carino discloses:**

As to claims 1 and 11-12,

receiving a query; See Abstract; Fig. 3; 7:63-67;

determining an execution plan for the query; See 8:44-67; 9:35-51;

executing the query; See Fig. 3.

Carino discloses the claimed invention except for determining whether query implementation information should be logged for the query. Golding teaches that it is known to determine whether query implementation information should be logged for the query. It would have been obvious to one having ordinary skill in the art at the time the invention was made to determine whether query implementation information should be logged for the query as taught by Golding, since Golding states at column 11, lines 53-64, that such a modification would limit the log to contain only data with respect to some minimum threshold of popularity.

As to claims 2, 15, and 25,

wherein determining whether query implementation information should be logged comprises determining whether the query should be monitored; See Abstract; Fig. 2; 6:24-67; Goldring: 11:53-64.

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As to claim 3,

wherein determining whether query implementation information should be logged comprises comparing an estimated runtime of the query to a user-specified threshold value; See Abstract; Fig. 2; 8:20-67; Goldring: 11:53-64.

As to claims 4 and 16,

wherein determining an execution plan comprises determining a cost for a plurality of execution plans using one or more cost factors and wherein determining whether query implementation information should be logged comprises comparing at least one of the cost factors to a user-specified threshold value; See Abstract; Fig. 2; 8:20-67; Goldring: 11:53-64.

As to claims 5 and 17,

wherein determining whether the query implementation information should be logged comprises comparing a cost factor to a predefined threshold value; See Abstract; Fig. 2; 8:20-67; 9:10-16; Goldring: 11:53-64.

As to claims 6, 19, and 24,

wherein the cost factor is selected from at least one of a location of tables, a size of tables, a network node location, a system operating characteristic, a system operating statistic, an estimated runtime for the query, space usage and any combination thereof; See 6:64-67; 7:1-10; 9:5-50; Goldring: 11:53-64.

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As to claims 7 and 13-14,

wherein query implementation information is monitored by a monitor process and wherein determining whether the query implementation information should be logged is performed after executing the query; See Abstract; Fig. 2; 6:24-67; Goldring: 11:53-64.

As to claim 8,

wherein determining whether the query implementation information should be logged comprises determining whether a post-runtime cost factor exceeds a predefined threshold value; See Abstract; Fig. 2; 8:20-67; 9:10-16; Goldring: 11:53-64.

As to claims 9 and 20,

comparing a cost factor of the query to a threshold value; See Abstract; Fig. 2; 8:20-67; 9:10-16; and

if the cost factor exceeds the threshold value, then logging the query implementation information; See Abstract; Fig. 2; 8:20-67; 9:10-16; Goldring: 11:53-64.

As to claim 10, 18, 21, 23, and 27,

wherein the cost factor is an estimated runtime of the query; See Abstract; Fig. 3; 7:1-25; 8:20-67; 9:10-16.

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As to claim 22,

It is a combination/subcombination of previously rejected claims and is rejected for their respective reasons as stated above.

As to claim 26,

wherein the monitor program is executed only if the threshold value is exceeded by the selected cost factor of the query; See Fig. 2; 8:20-67; 9:10-16.

As to claims 28 and 29,

Wherein determining whether the query implementation information should be logged is done on the basis of the execution plan; See Abstract; Fig. 2; 6:24-67; 8:20-67; 9:10-16.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Rones whose telephone number is 703-306-3030. The examiner can normally be reached on Monday-Thursday 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles Rones  
Primary Examiner  
Art Unit 2175

September 27, 2004



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